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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DAVID M. CATHCART, JAMES H.
WHITEHEAD, ROBERT W. DECKER,
DALE BALDISSERI, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

SARA LEE CORPORATION, SARA LEE
BAKERY GROUP, EARTHGRAINS
BAKING COMPANIES, INC. (formerly sued
as DOE 1) and DOES 2 through 20,

Defendants.

Case No. C 09-5748 MMC

**STIPULATION AS TO DEFENDANTS'
ENTITLEMENT TO SUMMARY
JUDGMENT ON PLAINTIFFS' MEAL
BREAK CLAIMS BEGINNING
JANUARY 1, 2011**

~~[PROPOSED]~~ ORDER

The Honorable Maxine M. Chesney

1 Plaintiffs David Cathcart, Dale Baldisseri, James Whitehead, and Robert Decker (below
2 “Plaintiffs”) and Defendants Sara Lee Corporation, Sara Lee Bakery Group and Earthgrains
3 Baking Companies, Inc. (below “Defendants”) hereby stipulate as follows:

4 1. The State of California enacted a meal period exemption, Cal. Lab. Code § 512(e),
5 pertaining to collective bargaining agreements, effective January 1, 2011.

6 2. This exemption bars Plaintiffs from recovery of penalties or other relief arising
7 from their meal period cause of action (Count 2) for meal period violations that allegedly
8 occurred on and since January 1, 2011 to the present, and hereafter unless hereafter California law
9 or Plaintiffs’ collective bargaining agreement is changed with respect to said exemption.

10 3. Plaintiffs expressly reserve all rights and claims with respect to Plaintiffs’ meal
11 period cause of action (Count 2), and all relief requested in whole or in part on Plaintiffs’ meal
12 period cause of action, for meal period violations that allegedly occurred prior to January 1, 2011.

13 4. Defendants expressly reserve all rights and defenses with respect to Plaintiffs’
14 meal period cause of action (Count 2), and all relief premised in whole or in part on Plaintiffs’
15 meal period cause of action, for meal period violations that allegedly occurred prior to January 1,
16 2011.

17 WHEREFORE, THE PARTIES STIPULATE and request that the Court enter partial
18 summary judgment in favor of Defendants, against Plaintiffs Cathcart, Baldisseri, Whitehead, and
19 Decker only, but not against any unnamed or absent class members or putative class members, for
20 meal period violations that allegedly occurred beginning on and including January 1, 2011 until
21 the date the Court enters this Order, with respect to (1) Plaintiffs’ meal period of cause of action
22 (Count 2); and (2) Plaintiffs’ causes of action for penalties and other relief sought by Counts 1, 3
23 and 5 to the extent that such penalties/relief are premised on the meal period cause of action for
24 meal period violations that allegedly occurred beginning on and including January 1, 2011 until
25 meal period violations that allegedly occurred beginning on and including January 1, 2011 until
26 meal period violations that allegedly occurred beginning on and including January 1, 2011 until
27 meal period violations that allegedly occurred beginning on and including January 1, 2011 until
28 meal period violations that allegedly occurred beginning on and including January 1, 2011 until

1 the date the Court enters this Order, except to the extent, if any, that after May 10, 2012 and
2 before the date the Court enters this Order, Lab. Code § 512 is amended so as to eliminate or
3 modify said exemption. Each party to bear its own attorneys' fees and costs as it pertains to entry
4 of this stipulated partial summary judgment.

5 In compliance with General Order No. 45 (X), as filing party, Defendants attest that all
6 signatories below concur in the filing of this document.

8 DATED: May 10, 2012

MORGAN, LEWIS & BOCKIUS LLP

9
10 BY: /s/ Justin S. Brooks
Justin S. Brooks

11 Attorneys for Defendants

12 DATED: May 10, 2012

SPIRO MOORE LLP


13
14 BY: /s/ Ira Spiro
Ira Spiro

15 Attorneys for Plaintiffs

16 **~~PROPOSED~~ ORDER**

17
18 SO ORDERED.

19 Dated: May 11, 2012

20 
21 MAXINE M. CHESNEY
United States District Judge